



RE: FDIC FIL 47-2010

There are many issues in the FDIC's FIL 47-2010 that require attention and warrant a response from the banking industry. In an attempt to provide meaningful comments that are clear and to the point, this letter will respond to each of the following points provided in the FIL.

Review marketing, disclosure, and implementation of the program to minimize potential consumer confusion and promote responsible use.

Institutions should provide clear and meaningful disclosures and other communications about OD payment programs, features, and options. We agree it is in the best interest of customers and banks alike for the disclosures to be in a form that is easily understood. Perhaps the requirement should be on the customer to actually read what is provided. We observe that most customers do not read what is placed before them. We find disclosures in the nearest trash can on the way out the door. We would support any effort by the regulators to simplify the disclosures in a manner that would meet the requirements of accuracy, then hold the consumers responsible for grasping the content of the simplified disclosures.

To comment on the suggestion that we should 'promote responsible use', our bank, as do many other institutions, provide alternate OD protection programs. One product is an OD line of credit or Demand Deposit Loan (DDL). This line is set-up to draw funds into a potentially overdrawn account. The other service is commonly referred to as a sweep function. This service allows funds on deposit in a second/additional account to be swept into the potentially overdrawn account to cover potential overdrafts. Both of these products allow a very cost effective way for customers to have their potential overdrafts covered, before a problem occurs. These programs are an option for every account holder. To speak for our bank personally, the programs are very under utilized. Consumers are simply not taking advantage of solid, valuable, cost-effective programs that could benefit them.

Monitor programs for excessive or chronic customer use.

and

Consider providing information to consumers to help them more effectively manage personal finances. The proposed guidance suggests that the bank should contact the customer after they have six transaction fees in a 12-month period. It is unrealistic for banks to call or forward e-mail notification to every customer that falls under this trigger. This proposed guidance assumes that the customer is not aware of his or her own habits and would welcome an intervention by the bank. We do not believe that this proposed guidance presents a workable solution to the problem of excessive or chronic OD fees for consumers. Rather, the focus should be on consumer financial education which our industry supports.

Should not the customer bear responsibility to themselves to recognize their own habits and to monitor their own accounts by balancing bank account statements, viewing accounts on-line (information constantly available), checking balances by various means provided, etc?

NOTE: The customer will generally come to the bank only after they receive notice that their account was charged an OD fee. It is the rare case when a customer actually calls the bank timely to let them know they made a mistake. It would maybe be a fair practice to inform the customer we would be happy to refund applicable charges if they could bring in their most current bank statement showing they balanced to the bank records; providing a starting point to where the error occurred, and showing effort by the customer to prevent inadvertent ODs.

Additionally, community banks generally offer to educate consumers on how to keep checkbook records. This knowledge allows the responsibility to be placed where it should, in the hands of the account holder.

Institute appropriate daily limits.

We believe providing financial education, allowing consumers to make better choices on a daily basis, is the key to reducing the number and amount of OD fees. It comes down to a choice made by the customer with regard to their account; including where they choose to bank. Some banks currently limit the OD fees that can occur on a given account daily, and consumers are free to place their funds with those institutions if they so choose. Additionally, a bank cannot charge fees not contracted for between the bank and the customer, as provided in the deposit agreement. We encourage financial education and discourage placing undue burdens on banks in regards to a customer's chosen habit.

Review check clearing procedures.

Banks currently have a choice as to what order checks can be processed. It is unfortunate that the regulators believe it is in most consumers' best interest to process checks in a manner/order that allows for the least number of overdrafts.

As a general rule, the largest checks are the most important to the consumer. A vehicle payment, house payments, utility bills are all examples of significant large items. If we are to follow the check clearing suggestions as laid out in the FIL, this practice would have to be altered for many banks. The alteration of this practice could, at a minimum inconvenience, subject the consumer to accelerated payments and late fees in accordance with the terms of their loans. Being realistic, worse events could happen.

We believe most banks act responsibly toward their customers, and many customers benefit from OD protection programs. There are those instances where the programs could have been implemented and disclosed as to provide customers with a clearer choice between having the coverage and not having it. We also believe that financial education for the customer could help prevent much of the chronic or abusive use of such programs by the customer.

It is our hope that all comments provided lead to a reasonable result for all parties to which the programs pertain.

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